

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

PENDLETON DIVISION

JONATHON CLARKE,

Plaintiff,

v.

ALJEX SOFTWARE INC.,

Defendant.

No. 2:15-cv-01271-SU

OPINION AND ORDER

MOSMAN, J.,

On December 1, 2015, Magistrate Judge Patricia Sullivan issued her Findings and Recommendation (F&R) [24], recommending that Defendant's Motion to Dismiss for Failure to State a Claim, Motion to Dismiss for Lack of Jurisdiction, and Motion to Transfer Venue to New Jersey [14] should be DENIED. Judge Sullivan also recommended that Plaintiff's Motion to Transfer Venue to Idaho [12] should be GRANTED. No objections to the Findings and Recommendation were filed. I agree with Judge Sullivan's recommendation and I ADOPT the F&R [24] as my own opinion. While not specifically addressed in the F&R, I also conclude that Defendant's first Motion to Dismiss for Failure to State a Claim, Motion to Dismiss for Lack of Jurisdiction, and Motion to Transfer Venue [9] is DENIED.

DISCUSSION

The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge,

but retains responsibility for making the final determination. The court is generally required to make a *de novo* determination regarding those portions of the report or specified findings or recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to review, *de novo* or under any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been filed, in either case, I am free to accept, reject, or modify any part of the F&R. 28 U.S.C. § 636(b)(1)(C).

Upon review, I agree with Judge Sullivan's recommendation, and I ADOPT the F&R [24] as my own opinion. I also conclude that Defendant's first Motion to Dismiss for Lack of Jurisdiction and Motion to Transfer Venue [9] is DENIED.

IT IS SO ORDERED.

DATED this 21st day of December, 2015.

/s/ Michael W. Mosman
MICHAEL W. MOSMAN
United States District Judge